

1 UNITED STATES DISTRICT COURT  
 2 WESTERN DISTRICT OF TEXAS  
 3 AUSTIN DIVISION

3 WICKFIRE, LLC ) Docket No. A 14-CA-034 SS  
 4 )  
 4 vs. ) Austin, Texas  
 5 )  
 5 TRIMAX MEDIA, INC., ET AL ) June 10, 2015

6  
 7 TRANSCRIPT OF MOTION HEARING  
 8 BEFORE THE HONORABLE SAM SPARKS

8 APPEARANCES:

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23  
 24  
 25 Proceedings reported by computerized stenography, transcript  
 produced by computer.

09:31:23 1 THE COURT: All right. This is 14-CA-34, WickFire,  
09:31:28 2 LLC, et al, and I have the plaintiff, multiple defendants,  
09:31:36 3 third-party defendants, third-party complaints, 12 lawyers, only  
09:31:42 4 two smart that want out.

09:31:46 5 So let's make your announcements.

09:31:53 6 MR. COBURN: Your Honor, Bradley Coburn on behalf of  
09:31:55 7 Plaintiff WickFire.

09:31:56 8 MS. ATLAS: Katharine Atlas on behalf of Plaintiff  
09:31:59 9 WickFire.

09:32:00 10 MR. NASH: Hi, your Honor. This is Brian Nash on  
09:32:02 11 behalf of WickFire.

09:32:05 12 MR. VOGEL: Your Honor, Peter Vogel on behalf of the  
09:32:09 13 Defendants TriMax and the other new defendants.

09:32:14 14 MS. BROWN: And Sara Brown on behalf of TriMax and the  
09:32:16 15 TriMax-related parties, for Woodruff, Josh West and WREI.

09:32:26 16 THE COURT: Okay. I have pending WickFire's motion to  
09:32:29 17 dismiss the amended counterclaims and third-party claims. The  
09:32:34 18 third-party defendant's motion to dismiss TriMax parties' amended  
09:32:38 19 third-party claim, the defendant's motion to extend scheduling  
09:32:42 20 order deadlines, the defendant's motion to expedite the motion to  
09:32:48 21 amend scheduling order deadlines, and TriMax's motion to withdraw  
09:32:53 22 as counsel Bhella and Price.

09:33:00 23 So as I picked up the three volumes of pleadings in  
09:33:07 24 this case, I looked first at the scheduling order, which was  
09:33:10 25 meaningless because it took 13 months to get issued in this case,

09:33:16 1 which should have indicated to me that there's something wrong  
09:33:20 2 here with the parties and/or counsel. I've already entered a  
09:33:26 3 blistering order in this case about the history of this case,  
09:33:30 4 and, yet, there's no improvement. And this case presently is set  
09:33:35 5 on my docket for trial on, specifically, the month of, I think,  
09:33:50 6 September, but let's find out for sure.

09:33:52 7 LAW CLERK: October.

09:33:55 8 MS. BROWN: Your Honor, I -- this is Sara Brown.

09:33:57 9 I don't know if anyone else is having the same trouble  
09:33:59 10 hearing you as what I am. But I have a hard time understanding  
09:34:05 11 you.

09:34:05 12 THE COURT: All right. Well, it's set for October. I  
09:34:09 13 have a large docket, as I've tried to tell you. I have extremely  
09:34:19 14 complex patent cases, and the patent lawyers now since 1991 know  
09:34:24 15 that instead of a three-week trial or a four-week trial, they  
09:34:28 16 have to try the case in six days, Monday through Thursday,  
09:34:32 17 Monday, Tuesday with the case going to the jury on Thursday. And  
09:34:45 18 no civil case, no civil case, I emphasize it, no civil case,  
09:34:47 19 including antitrust, security cases, products liability, you name  
09:34:57 20 it, gets more than nine hours a side. That means four full days  
09:35:01 21 of trial. That's all.

09:35:02 22 I don't know what the heck y'all are doing when you're  
09:35:05 23 not going to get even nine hours of trial. This case doesn't  
09:35:08 24 deserve nine hours of trial. I've got complex criminal case set  
09:35:17 25 for October. I don't know if I will get anybody to assist me.

09:35:22 1 This docket, according to the national Federal Circuit in  
09:35:31 2 Washington, was supposed to have five judges, we still have two.  
09:35:38 3 I don't think the Congress is going to give me any assistance to  
09:35:42 4 take some of these cases, although Judge Pitman is trying to help  
09:35:46 5 on the civil docket out of San Antonio.

09:35:53 6 So I made it clear since 1991, when I took this case --  
09:35:57 7 this docket and saw how it was, so that you know, for the first  
09:36:05 8 three years, all motions were heard on Saturdays because we had  
09:36:10 9 so many cases. And the cases had backed up forever. It took us  
09:36:16 10 about five-and-a-half years to get a docket to where we could try  
09:36:20 11 cases within a twelve-month period. And that went out some time  
09:36:28 12 ago because every year, we've got more and more and more cases.

09:36:35 13 So when I get a case, I expect the lawyers not only to  
09:36:40 14 be competent but to work together for the opportunity of trying  
09:36:45 15 the case, and that did not occur in this case, notwithstanding my  
09:36:50 16 oral words and notwithstanding my written words, which are part  
09:36:54 17 of the record.

09:36:56 18 And now we come to beginning. I've got WickFire's  
09:37:01 19 motion to dismiss. I've got the third-party's motion to dismiss.  
09:37:09 20 All having to do with pleadings that should have been completed  
09:37:13 21 in this case -- I don't know. I don't know how to judge it  
09:37:20 22 because I couldn't even get any answer in this case for 13  
09:37:24 23 months. The case was filed in January of '14, and it took  
09:37:31 24 forever with motions -- I've already entered an order in there  
09:37:36 25 how many motions for extensions that they have.

09:37:38 1 And that's a problem with the docket. We have so many  
09:37:43 2 cases that motions for extensions are automatically granted on  
09:37:49 3 the basis that they're genuine and there's a reason for it.  
09:37:55 4 Otherwise, you wouldn't have had a year from January to January  
09:37:59 5 before you had a complaint. I don't remember if it's the third  
09:38:03 6 amended complaint or the fourth amended complaint. And finally,  
09:38:07 7 I just decided I'm going to join issue and see what this case is  
09:38:12 8 about. And we're still in the pleadings stage.

09:38:18 9 So I've gotten pounds of paper in this file. There's  
09:38:23 10 no way in the world you're going to be ready to try this case in  
09:38:26 11 October. I'm set through April of 2017, as we sit here. So I  
09:38:36 12 thought we'd have a little powwow and see what can be done.

09:38:41 13 I've chastised the lawyers for their nonprofessional  
09:38:45 14 comments in pleadings. I don't know what else to do except what  
09:38:50 15 I've done on several occasions. I don't know what the cloud is,  
09:38:54 16 but occasionally, I will put a case in the cloud -- because I'm  
09:38:58 17 not going to worry about it anymore -- and it can stay there  
09:39:01 18 forever. And this looks like it is perfect for that disposition.

09:39:10 19 Now, I have a counterclaim that is alleging RICO.  
09:39:28 20 Other than criminal indictments alleging RICO, every RICO claim  
09:39:33 21 made since '91 in this court and in my partners' court, Judge  
09:39:43 22 Nowlin, and then, Judge Yeakel, have ended in one way, and that  
09:39:46 23 is sanctions against the pleader. And I'm going to enter today a  
09:39:53 24 little questionnaire that will take somebody three or four days  
09:39:59 25 just to answer the questionnaire with regard to RICO, which I

09:40:03 1 will then make the basis of knocking it out at a pleading stage  
09:40:07 2 or putting an order in that if it doesn't turn out, the other  
09:40:11 3 side will get attorney's fees.

09:40:15 4 So that's my message. So let's -- in comments like  
09:40:21 5 that, Mr. Coburn, you have the honor of going first and tell me  
09:40:27 6 what is wrong with this case, how you can't get it to trial in  
09:40:32 7 one year and eight months.

09:40:36 8 MR. COBURN: Your Honor, thank you. This is Bradley  
09:40:39 9 Coburn.

09:40:39 10 We are -- WickFire's absolutely ready to go to trial.  
09:40:42 11 We have served our opening expert reports. We've taken the major  
09:40:45 12 party deposition in the last week. We have almost, I think, more  
09:40:49 13 than seven depositions already on the schedule to finish up the  
09:40:53 14 discovery period. We are -- be ready to move into trial  
09:40:56 15 preparation later this summer.

09:40:58 16 So speaking on behalf of WickFire, we are absolutely  
09:41:01 17 ready. This has always for us been a fairly narrow case. Only  
09:41:04 18 recently, after we added the new defendants following the fight  
09:41:08 19 over the motion to quash with Google was -- has RICO and Sherman  
09:41:14 20 antitrust claims, which we consider to be baseless, and, as well,  
09:41:17 21 we filed the motion to dismiss.

09:41:19 22 Only with that wrinkle has this case gotten more  
09:41:22 23 complicated. But that's not at WickFire's doing; and WickFire  
09:41:26 24 doesn't believe that it's appropriate for those claims to have  
09:41:29 25 been asserted.

09:41:29 1 THE COURT: Well, WickFire made the new parties and has  
09:41:35 2 objections to their amended counterclaim. You had objections  
09:41:39 3 first and now a motion to dismiss the third-party claims. That  
09:41:46 4 doesn't sound like you're ready. Okay.

09:41:48 5 Mr. Golden -- or, excuse me, Mr. Vogel, I guess.

09:41:53 6 MR. VOGEL: Your Honor, this is Peter Vogel on behalf  
09:41:55 7 of TriMax --

09:41:56 8 THE COURT: Okay, Mr. Vogel.

09:41:58 9 MR. VOGEL: -- Josh West and WREI.

09:42:01 10 I guess the point to start with is the fact that you  
09:42:04 11 identified Mr. Golden and asked for him to comment first.  
09:42:09 12 Unfortunately, as we've pointed out in our motion to continue,  
09:42:12 13 Mr. Golden had to leave our firm for a family emergency and is  
09:42:18 14 out for at least the next 90 days. He was lead counsel on this  
09:42:22 15 case. I was involved in the case until January, and trying to  
09:42:26 16 get back up-to-speed at this point is obviously a serious  
09:42:30 17 problem.

09:42:30 18 But to respond to what Mr. Coburn said about being  
09:42:34 19 ready, I don't think that's very factually correct. One  
09:42:39 20 deposition has been taken on each side so far. There are 17  
09:42:43 21 depositions that are scheduled for this month. As a matter of  
09:42:47 22 fact, WickFire issued last week -- I'm sorry, in this -- during  
09:42:53 23 this week, new subpoenas to third parties to get evidence. I  
09:42:58 24 don't think we're ready.

09:42:59 25 We asked for 90 days. We're not asking for two years

1 to extend it beyond a reasonable length of time. We just think  
2 that in order to be ready to try the case and to complete all the  
3 evidence and all the -- so that we can have the, you know, the  
4 case presented properly to the Court.

5 They -- as you point out, Judge, WickFire amended this  
6 complaint. They brought in three new defendants. They didn't  
7 file their third amended complaint until February. And as you  
8 pointed out, there are motions to dismiss that are pending.

9 So we don't think that this is going to be ready for  
10 trial. And we think it is in the best interest of your time and  
11 of the management of your docket that we get an additional 90  
12 days, and we push this off from the October setting that we  
13 currently have. I mean, as I point out, we've only had one  
14 deposition of each party taken so far. And it's hard for me to  
15 imagine we could possibly have a trial in October if only two  
16 witnesses have been deposed out of 17.

17 We are still getting evidence in support of expert --  
18 the expert reports were due on June 1st. We have not still  
19 gotten all the evidence in support of the arguments that were  
20 made. So we are trying to do that in order to even have the  
21 rebuttal reports that we intend to issue on the 16th. So I do  
22 not think that either party is going to be ready, your Honor.

23 And I think it's important to take into account that we  
24 are not trying to delay this, but there are circumstances with  
25 this number of parties and the amount of discovery that is yet to



09:44:38 1 be concluded. And I think it's unrealistic.

09:44:41 2 THE COURT: Well, you really have two parties. You've  
09:44:45 3 got 12 lawyers. But you just have two parties, and that's  
09:44:49 4 WickFire and its principals and TriMax and WREI. It shouldn't be  
09:44:59 5 a complex case and why 12 lawyers can't produce more than two  
09:45:05 6 depositions in a year and six months defies imagination. I mean,  
09:45:15 7 this case isn't ready.

09:45:17 8 MR. VOGEL: Your Honor --

09:45:17 9 THE COURT: Y'all have taken -- you've just taken too  
09:45:20 10 much -- your clients dislike each other. And the lawyers, with  
09:45:24 11 the exception of Mr. Vogel -- you haven't been involved, but I'm  
09:45:27 12 sure when you picked up the file, you saw the lawyers have been  
09:45:31 13 following suit, just making catty remarks against each other and  
09:45:35 14 filing page after page after page out of pleadings that really  
09:45:39 15 don't have anything to do with it. My staff doesn't have time to  
09:45:42 16 read it and I don't, either.

09:45:44 17 That's the reason I've come down on this case. But I  
09:45:50 18 don't know what to do with you. This case isn't going to go to  
09:45:54 19 trial in October. I know it, you know it and -- but I don't know  
09:45:58 20 what to do with it because I could put it off two years. I have  
09:46:03 21 cases set, as I've said, already into 2017. So it doesn't hurt  
09:46:08 22 me to put it off two years. As a matter of fact, it's a good  
09:46:11 23 year: I'm going to be 76 years old. That means somebody else  
09:46:13 24 will have to determine what in the hell to do with this case.

09:46:17 25 But by that time, you may be through. You may have

09:46:20 1 completed the motions to dismiss on all of the pleadings. But if  
09:46:28 2 I judge the history as to what happened, you're only going to  
09:46:31 3 have two more depositions. So I don't know what to -- I don't  
09:46:34 4 know what to tell you. And this is not an easy case.

09:46:37 5 MR. COBURN: Your Honor, this is Bradley Coburn.

09:46:39 6 THE COURT: Yeah.

09:46:39 7 MR. COBURN: Mr. Vogel may be speaking for his side.  
09:46:42 8 But WickFire is prepared. We do not think this is a complicated  
09:46:45 9 case. It's been made artificially complicated by some of the  
09:46:48 10 claims that have been asserted on the other side. But it's not  
09:46:51 11 unusual at all to have a very busy last month of discovery  
09:46:54 12 period, and that's what we've been counting on and relying on.

09:46:57 13 And just yesterday, we got a notification from another  
09:47:00 14 vendor about one of these fake advertisements that's been hurting  
09:47:03 15 our business and we just -- we want to get this resolved, and  
09:47:06 16 we're prepared to get this resolved in October. And that's as  
09:47:10 17 forthright as I can be about that.

09:47:11 18 You know, we've countered on the Court's statements  
09:47:14 19 over and over again that we need to be ready by October 2015, and  
09:47:17 20 we've prepared accordingly. And that's where WickFire's --

09:47:21 21 THE COURT: And when --

09:47:24 22 MR. COBURN: I'm sorry, sir.

09:47:25 23 THE COURT: When did you bring in Woodruff and West?

09:47:28 24 MR. COBURN: Well, we wanted to do it about a year ago,  
09:47:31 25 but based on the motion to quash, which delayed our finding out

1 that -- giving us a Rule 11 basis for adding these defendants,  
2 you know, that delayed everything until fall of last year. And  
3 then, there was a fight obviously over the sufficiency of the  
4 pleadings, but it's no surprise. I mean, none of those issues  
5 from our side are new.

6 And there's complete symmetry between the issues that  
7 affect TriMax as an entity and the additional defendants that  
8 have come in because their liability is just based on the fact  
9 that they're principals for those entities. So it doesn't change  
10 the fact scenario. It doesn't change the legal arguments. And  
11 it's not any kind of surprise.

12 The only change here has been the assertion of  
13 antitrust and RICO claims, and that's from the other side.

14 MR. VOGEL: Your Honor, this is Peter Vogel. I'd like  
15 to respond.

16 I don't think that Mr. Coburn is being -- is sharing  
17 this in the right light, and that is, there has been 43-some-odd  
18 subpoenas issued to third parties. And I know, Judge, that  
19 generally when you have trials, the subpoenas are -- there aren't  
20 that many subpoenas sent to third parties, and that makes this  
21 much more complicated to start with.

22 And then, second, the parties, as you've already  
23 identified, the parties have been jockeying with one another with  
24 regards to whether the third parties have produced all the  
25 documents and -- there have been motions filed in your court to

09:48:54 1 compel. Actually, we have a motion to compel in Washington state  
09:48:58 2 for third-party subpoena right now. It's ripe and we're waiting  
09:49:02 3 to hear on that.

09:49:03 4 So I think that this is an unusual case in terms of the  
09:49:06 5 discovery. I don't think the trial will be that unusual. But if  
09:49:09 6 all the evidence was in the possession of the parties, that would  
09:49:12 7 be one thing. It's not. It's in possession of more than 33  
09:49:15 8 different third parties. But I think that that is -- elongated  
09:49:20 9 this.

09:49:20 10 THE COURT: What are the --

09:49:21 11 MR. COBURN: Your Honor, with the exception of four  
09:49:23 12 subpoenas, with the exception of four of those subpoenas, you  
09:49:26 13 know, the rest of them are all from the other side.

09:49:30 14 And the same thing with discovery requests that have  
09:49:32 15 only, you know, recently been served on our side and that's --  
09:49:35 16 you know, that puts us in a strange spot of because of the delay  
09:49:39 17 in making those discovery requests, our October 2015 trial  
09:49:44 18 setting is jeopardized as the harm is ongoing, which we recently  
09:49:47 19 learned -- I mean, we learned of yesterday, which is a surprise  
09:49:50 20 to us. We thought this had subsided and it hasn't.

09:49:54 21 MS. BROWN: Bradley, a couple of things. This is Sara  
09:49:58 22 speaking. I'm the -- on TriMax's side.

09:50:01 23 I'm most familiar with the evidence. And I think that  
09:50:05 24 you're under-representing the number of subpoenas -- third-party  
09:50:08 25 subpoenas that you've issued. I can think of ten just off the

09:50:12 1 top of my head. And so --

09:50:15 2 MR. COBURN: Which we've already got responses to.  
09:50:18 3 They're not outstanding. We've got responses to them.

09:50:20 4 MR. VOGEL: But, Judge, this is Peter Vogel.

09:50:22 5 I think that what seems to be completely disingenuous  
09:50:28 6 about what Mr. Coburn is saying is, if they were so ready, they  
09:50:31 7 would have taken all eight or 10 of their depositions before  
09:50:34 8 today. They've taken one deposition last Friday. It was the  
09:50:37 9 first one they've taken in the entire case. If they were so  
09:50:40 10 ready, they would have done all the depositions already and  
09:50:43 11 they're not -- we're not ready for it.

09:50:45 12 MR. COBURN: Your Honor, the other side just produced  
09:50:47 13 50,000 documents two days ago. We've been waiting for documents  
09:50:50 14 to take these depositions. The holdup has not been our  
09:50:52 15 willingness to take them. It's been getting the documents from  
09:50:54 16 the other side. And the only reason I think we got them finally  
09:50:58 17 is because the discovery period that's finally winding down.

09:51:00 18 The deadlines are doing what they're intended to do,  
09:51:03 19 which is to focus the parties in March towards a resolution. And  
09:51:06 20 WickFire's concern that if we push things off another two  
09:51:09 21 years -- I mean, the request for three months, as the Court has  
09:51:12 22 said, is, in effect, a request to push things to 2017; and if we  
09:51:15 23 do that, you know, then we're back where we are in this fuzzy  
09:51:18 24 area where there's no real pressure to comply with deadlines.  
09:51:22 25 And WickFire is sort of trapped in sand again.

09:51:25 1 So that's WickFire's perspective.

09:51:27 2 THE COURT: That's the worst statement I think I've  
09:51:29 3 heard in 52 years of practicing law when you say there's no  
09:51:32 4 reason to comply with fuzzy guidelines when it's an order from a  
09:51:38 5 United States District Judge. Maybe I've heard --

09:51:43 6 MR. COBURN: I agree, your Honor. I'm not saying that  
09:51:45 7 I don't believe that there is, but it seems to have focused the  
09:51:47 8 information that we've gotten from the other side. I apologize.  
09:51:50 9 I don't mean to imply in any way that there's no duty to respond.  
09:51:54 10 It's just, as a practical matter, it seems like we've gotten a  
09:51:57 11 lot more information as these deadlines have come close.

09:52:00 12 THE COURT: You know, your first trial date was last  
09:52:04 13 year.

09:52:08 14 Now, did it ever occur to you, either side, to sit down  
09:52:15 15 and professionally work out the scheduling order so that you  
09:52:23 16 wouldn't be here and the pleadings? You know, the cases that are  
09:52:27 17 set between now and the next time that I can make a setting,  
09:52:33 18 that's what the lawyers do. They know what the Austin docket is.  
09:52:36 19 They sit there and they work hard. Maybe it took them one case  
09:52:41 20 to learn. I don't have any discovery motions. It's less than  
09:52:49 21 five percent on the Austin docket. It was 60-something percent  
09:52:56 22 when I came here in '91 and that's -- I didn't take this job for  
09:53:00 23 discovery.

09:53:02 24 Discovery issues are the mark of incompetent lawyers,  
09:53:05 25 with the exception of privilege and when they can't get along

09:53:14 1 with an agreement to give me a in-chambers view and I can crank  
09:53:20 2 it out pretty quick. Y'all are still just arguing and blaming  
09:53:26 3 each other. You haven't made any progress at all that I could  
09:53:30 4 see. But let's briefly -- I've got a bunch of lawyers sitting  
09:53:36 5 here listening to all of this, and their cases are coming up.

09:53:41 6 So, let's see, on the amended counterclaims and  
09:53:47 7 third-party claims, what is it that you don't understand they're  
09:53:50 8 suing you for? I can read it and I know what they're suing you  
09:53:54 9 for.

09:53:59 10 MS. ATLAS: Judge, this is Katharine Atlas on behalf of  
09:54:01 11 WickFire.

09:54:02 12 On the amended counterclaims and third-party claims, we  
09:54:04 13 think that they have come nowhere close to alleging viable  
09:54:08 14 pleadings under RICO and the antitrust laws. WickFire is a  
09:54:12 15 small, Austin-based business, and has now been accused of both  
09:54:15 16 criminal conduct under the wire fraud statute as a predicate act  
09:54:19 17 under RICO and an antitrust violation.

09:54:23 18 And, Judge, their counterclaims and third-party claims  
09:54:28 19 are certainly voluminous, but they are lacking on almost every  
09:54:32 20 substantive ground and, also, are lacking for basic Article III  
09:54:37 21 standing. They're asserted by parties that are not TriMax; and  
09:54:40 22 that is because they have been asserted extremely late in the  
09:54:44 23 game, more than approximately a year and a half into this  
09:54:47 24 litigation.

09:54:49 25 And the harm that they're complaining about is harm

09:54:50 1 that was done to the business, not to the business's owner  
09:54:54 2 individually. The business's owner's nephew and to a separate  
09:54:57 3 corporate entity.

09:54:59 4 THE COURT: Well, they're in the case because at the  
09:55:02 5 last minute, after at least three, maybe four amended complaints,  
09:55:06 6 you sued those two people, Woodruff and West. So they, under the  
09:55:13 7 Old Testament law, sued your principals back. That's why they're  
09:55:17 8 in the case. I don't know they're in the case or not. I expect  
09:55:21 9 it's the principals. I expect both of them are corporations in  
09:55:29 10 their representative capacity. I don't have any idea.

09:55:31 11 But that's something that the two of you could have  
09:55:33 12 discussed and decided over a cup of coffee or a cup of hot tea,  
09:55:40 13 without giving me five pounds of paper. I'm entering a  
09:55:45 14 questionnaire today, and I've given the warning today that  
09:55:48 15 anybody that makes the allegations under RICO in a civil case  
09:55:54 16 better be good because I will make them pay every cent of the  
09:56:00 17 attorney's fees of the opponent when they can't prove it up. And  
09:56:05 18 I've not had one prove it up in the 24 years I've been here, and  
09:56:12 19 neither has Judge Nowlin or Judge Yeakel.

09:56:17 20 I'm sure that there are some civil RICO cases. I've  
09:56:20 21 tried multiple RICO cases in the criminal section, but very  
09:56:27 22 rarely does -- and I've seen it alleged, but by the time we get  
09:56:33 23 to trial, it's been eliminated one way or the other. So, you  
09:56:37 24 know, that's where we are.

09:56:42 25 Right now, I've got the third-party defendant's motion



09:56:44 1 to dismiss TriMax's amended. That's the same thing you're  
09:56:50 2 talking about. So you've got WickFire's motion and third party  
09:56:53 3 there. They're identical, are they not, Ms. Atlas?

09:56:59 4 MS. ATLAS: Judge, they are -- they do overlap quite a  
09:57:01 5 bit on substantive grounds. However, it is worth noting that on  
09:57:05 6 behalf of our principals, there was a scheduling order deadline  
09:57:08 7 that the new defendants did not comply with. They were required  
09:57:13 8 to show good cause in order to add new parties this late in the  
09:57:18 9 game. When WickFire wanted to add three new parties, based on  
09:57:21 10 the results of a Google subpoena, we did seek leave from the  
09:57:23 11 Court and were, in fact, granted leave. The new defendants did  
09:57:27 12 not bother to ask the Court for permission before doing --

09:57:30 13 THE COURT: Okay. All right. Enough. I can't take  
09:57:33 14 anymore crap. Y'all get a weekend. Get a couple of pistols and  
09:57:42 15 go out and shoot each other. Turn off the thing. I'm through.

16 (End of proceedings.)  
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UNITED STATES DISTRICT COURT)  
WESTERN DISTRICT OF TEXAS )

I, LILY I. REZNIK, Official Court Reporter, United States District Court, Western District of Texas, do certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

I certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

WITNESS MY OFFICIAL HAND this the 3rd day of July, 2015.

/s/Lily I. Reznik  
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